REMARKS

Claims 34-38 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Chen et al. (U.S. Patent Application Publication Number 2003/0157945, hereinafter "Chen"), claims 1, 6 and 28 stand rejected under 35 U.S.C. § 103(a) as being anticipated by Magee et al. (U.S. Patent Application Publication Number 2004/0198379, hereinafter "Magee") in view of Blackett et al. (U.S. Patent Application Publication Number 2004/0138834, hereinafter "Blackett"), and claims 2, 7-9, 12-14, 17, 27 and 29-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Magee in view of Blackett and further in view of Chen. Respectfully disagreeing, reconsideration is requested by the applicants.

Regarding claims 34-38, the Examiner cites Chen as teaching what is claimed. Chen [0049-0054] reads (emphasis added):

[0049] In one embodiment, the packet data is in the dormant state 402, with PPP connected. The PDSN may send 404 packet data to the PCF on the existing PPP connection, e.g. A10 connection, associated with a specific mobile. The PCF may send 406 the packet data to the BSC, e.g. in short data bursts on an A9 connection. The PCF may also buffer the packet data.

[0050] The BSC may acknowledge the receipt of the A9-SDB message from the PCF by returning 408 an, e.g., A9-SDB, acknowledge message, **which may include an indication that the BSC may attempt to send the data to the mobile as a SDB.** ThePCF may then discard the data that it had buffered.

[0051] **The BSC may send the packet data, e.g., in SDB form, directly to the mobile, or alternatively the BSC may use the ADDS page procedure.** The BSC may decide to deliver the data to the mobile over the traffic channel by first bringing up the traffic channel. If the BSC directly sends 410 the SDB to the mobile, the mobile may send 412, e.g., a layer 2, acknowledgement in response to the SDB received from the BSC. If the acknowledgement is not received from the mobile, the BSC may choose not to send the data or may rely on the MSC to deliver the data via ADDS Page procedure.

[0052] If the BSC could not successfully send the SDB to the mobile in step 410, **the BSC may send 414 the SDB data to the <u>MSC</u>** in a BSC service request message. The MSC may acknowledge the reception of the BSC service request message by sending 416 a BSC service response to the BSC. The MSC may send 418 an ADDS Page message to the BSC(s) with the data burst type field in the ADDS user part element set to SDB, and the SDB included in the application data message field. The BSC may forward 420 the

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SDB to the mobile. An, e.g., layer 2, acknowledgement may be sent 422 by the mobile after receiving the SDB from the BSC.

[0053] **If the <u>MSC</u> had included a tag element in the ADDS page message, the BSC may return 424 an ADDS page acknowledge message to the <u>MSC</u> after receiving the acknowledge 422 from the mobile. The BSC may send 426 an, e.g.,A9-update-A8, message to the PCF to indicate successful transmission of the SDB to the mobile.** The PCF may send 428 an, e. g., A11, registration request with the SDB airlink record to the PDSN. The PDSN may respond 430 with an, e.g., A11, registration reply message. The PCF may respond 432 to the BSC with an, e.g., A9, update acknowledge.

[0054] **Having the BSC directly deliver the SDB to the mobile may minimize the delay, but the mobile may not receive the SDB because it may have moved out of the BSC service area by the time the SDB arrives.** Since the MSC maintains mobile location information, ADDS Page ensures that the mobile receives the SDB. However, this procedure may incur a larger delay, since the BSC has to send the SDB to the MSC first, and then the MSC sends the SDB to the appropriate BSCs to perform the ADDS Page.

However, the applicants submit that Chen does not teach or suggest sending by the BS a short data acknowledgment message to **the network equipment** (from which it received a short data delivery message) **indicating whether a response from the MS was received** for the signaling of the MS, **by the BS** in response to the short data delivery message. Rather, the applicants submit that Chen teaches merely that the "BSC may acknowledge the receipt of the A9-SDB message from the PCF by returning 408 an, e.g., A9-SDB, acknowledge message, which may include an indication **that the BSC may attempt to send the data to the mobile as a SDB**" (Chen [0050], emphasis added) and that "If the BSC could not successfully send the SDB to the mobile in step 410, the BSC may send 414 **the SDB data to the MSC in a BSC service request message**" (Chen [0052], emphasis added).

Moreover, the Examiner suggests that message 426 in Chen [0053] teaches sending by the BS a short data acknowledgment message to the network equipment (from which it received the short data delivery message) **indicating whether a response from the MS was received** for the **signaling of the MS, by the BS**, in response to the short data delivery message. However, Chen [0053] teaches that message 426 is sent "to indicate successful transmission of the SDB to the mobile" by the **MSC via ADDS paging mechanism**. Chen [0052] and Chen [0054] teach that the BSC may send the SDB to the MSC instead of the MS for delivery via ADDS paging.

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Thus, message 426 does not indicate whether a response from the MS was received for the **signaling of the MS by the BS**, as the claim recites.

Independent claim 1 recites:

> monitoring, by a wireless communications network, messaging and messaging responses of a mobile station (MS), wherein the messaging and the messaging responses do not specify a presence state of the MS or a presence state change by the MS;
> inferring, by the wireless communications network, a change in the presence state of the MS based upon the monitoring, wherein inferring comprises inferring the MS presence state has changed when the presence state of the MS indicates that the MS is present and messaging is detected that indicates MS activity from the group consisting of powering down, deregistering, entering an unavailable mode, handing off outside the wireless communication network, and involved in other communication.

Independent claim 28 as amended recites:

> a wireless presence proxy…
> adapted to monitor the messaging and the messaging responses of the MS, wherein the messaging and the messaging responses do not specify a presence state of the MS or a presence state change by the MS,
> adapted to infer a change in the presence state of the MS based upon the monitoring, wherein being adapted to infer comprises being adapted to infer the MS presence state has changed when the presence state of the MS indicates that the MS is present and messaging is detected that indicates MS activity from the group consisting of powering down, deregistering, entering an unavailable mode, handing off outside the wireless communication network, and involved in other communication.

The Examiner cites FIG. 2 boxes 110 and 112 and Magee [0014] as teaching this claim language. Magee [0014-0017] (the text describing FIG. 2 boxes 110 and 112 is included in Magee [0016-0017]) reads (emphasis added):

> [0014] Instant messaging and presence server (IMPS) 70 is coupled to location server 60 and to presence proxy 50. Presence proxy 50, location server 60 and presence server 70 comprise the packet switched portion of the home network 100. When location server 60 detects the mobile station 10 within a particular geographic area for which presence services are available, location server 60 sends a signal which triggers presence server 70. Presence server 70 evaluates the particular subscriber 10 against the stored contact list. If the contact list and its associated database indicate notification of presence services are permissible, presence server 70 sends the information via presence proxy 50 to mobile station 10 via base station 20. Location server 60 detects particular conditions for

transmitting the triggering signal to presence server 70. For example, if mobile station 10 has entered a shopping mall, school or sports stadium, for example.

[0015] Typically, **the mobile station 10 determines its geographic location and updates location server 60 with its location**.

[0016] Referring to FIG. 2, a flow chart of the operation of the mobile station or device 10 is shown. The process is started and block 110 is entered. The user or subscriber powers on the mobile station, block 110. Next, block 112 is entered which the mobile station determines whether it is provisioned for the presence feature. If the mobile station 10 is not equipped or provisioned with the presence feature, block 112 transfers control to block 114 which ends the process.

[0017] If the mobile device is equipped with the presence feature, block 112 transfers control to block 116 via the yes path. In block 116 the subscriber requests location notification lists from the presence server 70. Next, in block 118 the presence server 70 downloads or transmits the notification list associated with that geographic location to the mobile station 10.

The amended claims recite that the messaging and the messaging responses monitored **do not specify** a presence state of the MS or a presence state change by the MS. Assuming one equates "location" with "presence state," as it appears the Examiner is doing, Magee [0015] appears to teach away from this portion of the claim language with the MS determining its geographic location and then updating the location server 60 with its location, i.e., specifying its location.

The amended claims also recite that inferring / being adapted to infer comprises inferring / being adapted to infer **the MS presence state has changed when** the presence state of the MS indicates that the MS is **present** and **messaging is detected that indicates MS activity** from the group consisting of **powering down, deregistering, entering an unavailable mode, handing off outside the wireless communication network,** and **involved in other communication**. The Examiner recognizes that Magee does not specifically disclose this language and relies on the teaching of Blackett [0133] to fill in the gap. However, the applicants submit that the teaching of Blackett in this respect is quite general in nature, stating simply that "if a pre-determined time has elapsed 1540 without any event then the presence or status is determined again." The Examiner seems to argue that since the operational result is the same, a change in the presence state after a time period has elapsed, that the teaching

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of Magee and Blackett make the present claims obvious. The applicants agree with the Examiner that "the combination of Magee and Blackett does not specifically teach or suggest the group" of events recited in claims 1 and 28. Moreover, the present claims do not involve a time period elapsing but recite inferring a change in the presence state when messaging is detected that indicates certain MS activity. Blackett, as cited by the Examiner, simply teaches that the presence or status is determined again if a pre-determined time has elapsed. Claims 1 and 28 address how to determine the presence state. Thus, the applicants submit that Magee and Blackett do not make obvious what the present claims recite.

Since none of the references cited, either independently or in combination, teach all of the limitations of independent claims 1, 28 or 34, or therefore, all the limitations of their respective dependent claims, it is asserted that neither anticipation nor a prima facie case for obviousness has been shown. No remaining grounds for rejection or objection being given, the claims in their present form are asserted to be patentable over the prior art of record and in condition for allowance. Therefore, allowance and issuance of this case is earnestly solicited.

The Examiner is invited to contact the undersigned, if such communication would advance the prosecution of the present application. Lastly, please charge any additional fees (including extension of time fees) or credit overpayment to Deposit Account No. **502117 -- Motorola, Inc**.

Respectfully submitted,
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